

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JOSEPH JAMES FALCETTA, JR., #822447	§	
VS.	§	CIVIL ACTION NO. 6:05cv455
UNITED STATES OF AMERICA	§	CRIM. NO. 6:96cr59(1)

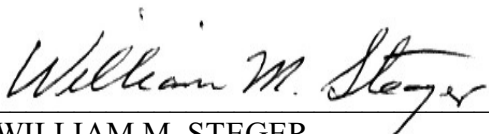
TRANSFER ORDER

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the motion to vacate, set aside or correct a sentence should be transferred to the Fifth Circuit for a determination whether the Movant should be allowed to file a successive § 2255 motion. *See In re Epps*, 127 F.3d 364 (5th Cir. 1997). The Movant has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Movant to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Movant are without merit. It is noted that the objections never addressed the conclusion that the case should be transferred to the Fifth Circuit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the motion to vacate, set aside or correct the Movant's sentence is **TRANSFERRED** to the Fifth Circuit.

SIGNED this 25th day of January, 2006.


WILLIAM M. STEGER
UNITED STATES DISTRICT JUDGE